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ON THE LAW OF THE SEA

SPLOS

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New York, 24 July-2 August 1996

ELECTION OF THE MEMBERS OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

Note by the Secretary-General

1. The International Tribunal for the Law of the Sea is constituted in accordance with article 287 of the United Nations Convention on the Law of the Sea and the Statute of the Tribunal, Annex VI thereto. The Tribunal is composed of 21 Members. Part XV of the Convention requires that States Parties shall settle disputes between them concerning the interpretation or application of the Convention by the peaceful means set out in Article 33 of the Charter of the United Nations. Article 286 of the Convention stipulates that, where no settlement has been reached by recourse to such means as the parties to the dispute may choose, the dispute shall be submitted at the request of any party to the court or tribunal having jurisdiction under section 2 of Part XV. Article 287 identifies the Tribunal as the central forum for this purpose.

2. The first Meeting of States Parties, held on 21 and 22 November 1994, decided on a one-time deferment of the first election of the Members. The election will be held on 1 August 1996 at the fifth Meeting of States Parties, to be held from 24 July to 2 August 1996 in New York. 1/

3. The Meeting also decided that the nominations of candidates would open on 16 May 1995 and that each State Party and a State which was in the process of becoming a State Party might nominate not more than two persons, as provided in article 4, paragraph 1, of the Statute. The Meeting further decided that the nominations would close on 17 June 1996. Nominations received from a State which was in the process of becoming a party to the Convention would remain provisional and would not be included in the list of candidates to be circulated by the Secretary-General of the United Nations prior to the election in accordance with article 4, paragraph 2, of the Statute, unless the State concerned had deposited its instrument of ratification or accession by

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1 July 1996. Subject to these decisions, the Meeting decided that all procedures relating to the election of the Members of the Tribunal as provided for in the Convention would apply. 2/

4. The Secretary-General, in accordance with article 4, paragraph 2, of the Statute and the decision of the Meeting of States Parties referred to above, addressed a note dated 27 March 1995 to States Parties and to observer States inviting them to submit by 17 June 1996 the names of candidates whom their Governments might wish to nominate for the election of Members of the Tribunal together with statements of qualifications of such candidates.

5. The Secretary-General addressed a further note dated 18 April 1996 to States Parties and observer States, drawing attention to the previous note inviting nominations and reminding them of the closing date for receipt of nominations and the requirement that States that were not parties should have deposited their instruments of ratification or accession before 1 July 1996 in order that candidates nominated by them would be included on the list of candidates for election.

6. A list of all the persons nominated, in alphabetical order, with an indication of the States Parties which have nominated them, will be prepared by the Secretary-General in accordance with article 4, paragraph 2, of the Statute. The list and the curricula vitae of the candidates will be circulated on 5 July 1996 in accordance with the decision of the first Meeting of States Parties. 3/

7. Articles 2 and 3 of the Statute provide as follows:

"Article 2

"Composition

"1. The Tribunal shall be composed of a body of 21 independent members, elected from among persons enjoying the highest reputation for fairness and integrity and of recognized competence in the field of the law of the sea.

"2. In the Tribunal as a whole the representation of the principal legal systems of the world and equitable geographical distribution shall be assured.

"Article 3

"Membership

"1. No two members of the Tribunal may be nationals of the same State. A person who for the purposes of membership in the Tribunal could be regarded as a national of more than one State shall be deemed to be a national of the one in which he ordinarily exercises civil and political rights.

"2. There shall be no fewer than three members from each geographical group as established by the General Assembly of the United Nations."

8. Article 4 of the Statute provides that the Members of the Tribunal shall be elected by secret ballot from the list of candidates prepared by the Secretary-General, as referred to in paragraph 6 above, at a meeting of States Parties convened for that purpose by the Secretary-General in the case of the first election. Two thirds of the States Parties shall constitute a quorum at such meeting.

9. Article 4, paragraph 4, of the Statute stipulates that the persons elected to the Tribunal shall be those nominees who obtain the largest number of votes and a two-thirds majority of States Parties present and voting, provided that such majority includes a majority of the States Parties.

10. In accordance with article 5 of the Statute, the Members of the Tribunal shall be elected for nine years and shall be eligible for re-election, provided, however, that of the Members elected at the first election, the terms of seven Members shall expire at the end of three years and the terms of seven more Members shall expire at the end of six years. The Members of the Tribunal whose terms are to expire at the end of the initial periods of three and six years shall be chosen by lot to be drawn by the Secretary-General of the United Nations or his representative immediately after the first election.

Notes

1/ SPLOS/3, para. 16 (a).

2/ Ibid., para. 16 (e).

3/ Ibid., para. 16 (d).